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6 UNITED STATES DISTRICT COURT
7 DISTRICT OF NEVADA

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9 UNITED STATES OF AMERICA,)
10 Plaintiff,) 3:06-cr-00120-LRH-VPC
11 vs.) ORDER
12 DELDAR MASIH,)
13 Defendant.)
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15 Presently before the court is Defendant Masih's Memorandum Regarding Admissibility
16 of Defendant's Statements (#22), which is essentially a motion in limine seeking a determination
17 that certain statements made by Defendant to Steven P. Brazelton will be admissible at trial. The
18 United States has filed an opposition and the court has held a hearing at which Mr. Brazelton's
19 prospective testimony was presented to the court.

20 Mr. Brazelton testified concerning comments made to him by Defendant Masih, which
21 likely occurred shortly after Defendant Masih entered a guilty plea on a criminal charge before
22 the Honorable Edward C. Reed, Jr. Defendant Masih's statements under oath made in the
23 course of Judge Reed's canvass of him are related to the pending charge and prospective trial in
24 this action. The comments attributed to the Defendant by Mr. Brazelton are inconsistent with
25 the statements under oath made to the canvassing court.

26 The case law in support of the admissibility and nonadmissibility of such statements is
27 generally at odds. However, the court is influenced by the fact that the statements assertedly
28 made to Mr. Brazelton are not being offered for the truth of the matter asserted as opposed to

1 being offered for purposes of showing the Defendant's state of mind. Given the timing of the
2 statements and the circumstances under which they were made, the court rules they are
3 sufficiently relevant to Defendant Masih's defense that they are not excluded by the hearsay rule
4 and would be admissible at trial.

5 If the defense does intend to offer the testimony of Mr. Brazelton, the court will consider
6 a cautionary instruction if one is requested by the government. Any proposed limiting instruction
7 should be served on the defense and provided to the court prior to trial.

8 IT IS SO ORDERED.

9 DATED this 1st day of June, 2007.



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11 LARRY R. HICKS
12 UNITED STATES DISTRICT JUDGE
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